THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 22639 of 2007

DATED: 26-10-2007

Between:

Vadlakonda Rajendra Prasad

Petitioner

And

The Municipality,
Jagtial, rep., by its Commissioner,
Office of Municipality, Jagtial,
Karimnagar district and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 22639 of 2007

Dated: 26-10-2007

Oral Order:

Heard the learned counsel for the petitioner and the

learned standing counsel for the respondents-Municipality—Sri P. Radhakrishna.

There is considerable ambiguity in the notice issued under Section 228 (1) of the Andhra Pradesh Municipalities Act, 1965 (for short 'the Act') which preceded the impugned notice dated 18-10-2007 issued under Section 228 (3) and Section 360 of the Act. The ambiguity is in respect of the premises with regard to which the petitioner is alleged to have violated the approved building permit and made constructions, allegedly contrary to the approved building permit, particularly with regard to the leaving a front open space of 3.05 meters. There is also a confusion with respect to the number of premises. While one notice issued under Section 228 (1) of the Act refers to the premises as house bearing No.2-2-4, others refer to premises as bearing H.No. 2-2-4 & 4/A. In any view of the matter, since the impugned notice under Section 228 (3) and 360 of the Act is based upon the notice dated 09-10-2007 issued under Section 228 (1) of the Act specifying the premises as one bearing H.No. 2-2-4 and not mentioning H.No. 2-2-4A, the first respondent/Municipality shall treat the order dated 18-10-2007 issued under Section 228 (3) and Section 360 of the Act as a provisional notice affording an opportunity to the petitioner to submit his explanation to the alleged violation viz., not leaving a front set back of 3.05 meters. The petitioner shall submit his explanation to such notice within three days from today and the

same shall be considered by the first respondent and appropriate final orders be passed afresh under Section 228 (3) of the Act (if warranted) and shall be communicated to the petitioner by registered post acknowledgement due, within seven (7) days from the date of receipt of the explanation by the petitioner. Pending such fresh decision, no action for demolition shall be taken in respect of the petitioner's property. Accordingly the writ petition is disposed of. No costs.

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GODA RAGHURAM, J

Dated: 26-10-2007

Pvks/*
Nb:- Furnish c.c. in three days.
B/o pvks